

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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MILLENNIUM TGA, INC.,

Plaintiff,

v.

JOHN DOE,

Defendant.

CASE NO. 4:11-cv-4501

Judge: Honorable Judge Vanessa D. Gilmore

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**PLAINTIFF’S UNOPPOSED MOTION FOR EXTENSION OF 26(f) JOINT  
DISCOVERY CONFERENCE**

Plaintiff Millennium TGA, Inc., by and through its undersigned counsel, and pursuant to Southern District of Texas Local Rule (hereinafter “LR”) 7.8, hereby moves this Court for administrative relief for an order continuing the 26(f) Joint Discovery Conference for good cause.

Plaintiff respectfully requests that this Court continue the 26(f) Joint Discovery Conference to **November 23, 2012**, or to a later date that is in accordance with this Court’s schedule. This extension is necessary because the Defendant’s Internet Service Provider (“ISP”), Comcast Cable Communications LLC (“Comcast”),<sup>1</sup> has not yet provided Plaintiff with the information necessary to ascertain the identity of the Defendant in this case. There is currently no known individual to meet and confer with at a 26(f) joint discovery conference. An extension is, therefore, necessary until the identity of the Defendant is ascertained.

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<sup>1</sup> See ECF No. 1-1.

## FACTUAL BACKGROUND

On December 20, 2011, Plaintiff filed its Complaint against John Doe alleging copyright infringement and related claims of civil conspiracy and contributory infringement. (ECF No. 1.) The next day, Plaintiff filed a Motion for Leave to Take Expedited Discovery so Plaintiff could subpoena certain ISPs and eventually ascertain the identities of John Doe and his joint tortfeasors. (ECF No. 2.) The Court granted Plaintiff's discovery motion on February 9, 2012. (ECF No. 6.) Within a week, Plaintiff issued the subpoenas on the relevant ISPs. Duffy Decl. ¶ 2. John Doe's ISP, Comcast, objected to Plaintiff's subpoenas. *Id.* ¶ 3. Comcast has not provided Plaintiff with the information sufficient to identify the John Doe Defendant. *Id.* ¶¶ 4-5.

Plaintiff filed a motion to compel Comcast's compliance with Plaintiff's subpoena with the court that issued the subpoenas. *Id.* ¶ 4; *see also Millennium TGA, Inc. v. John Doe*, No. 12-00150 (D.D.C. Mar. 7, 2012), ECF No. 1. The court in the District of Columbia granted Plaintiff's motion to compel on April 18, 2012. *Id.*, ECF No. 15. Instead of providing Plaintiff with the John Doe Defendant's identifying information, however, Comcast objected to the District of Columbia court's decision. *Id.*, ECF No. 16. On June 25, 2012, the District of Columbia court ruled that Comcast was to provide Plaintiff with the address (city and state) of the subscribers associated with the infringing IP addresses and then, based on that information, Plaintiff could later issue subpoenas in each of the jurisdictions where the subscribers reside to seek the remaining identifying information. *Id.*, ECF No. 27. Comcast has provided Plaintiff with the addresses of the individuals listed in Plaintiff's subpoena. Duffy Decl. ¶¶ 4. Plaintiff plans on issuing another subpoena to Comcast in order to identify the John Doe Defendant sufficiently to be able to name and serve him in this action. *Id.* Until that time, however, Plaintiff is unable to identify the John Doe Defendant. *Id.* ¶ 5.

### DISCUSSION

Because there is no known Defendant with whom to meet and confer at the 26(f) joint discovery conference, Plaintiff requests an extension until Plaintiff is able to ascertain the identity of the Defendant. An extension will allow Plaintiff to be able identify the Defendant and inform him or her of this litigation and the 26(f) conference. Until that time, a Rule 26(f) conference would be unproductive as only Plaintiff would be able to attend. Having only a single party attending would be contrary to the purpose of the *joint* conference. Fed. R. Civ. P. 26(f); *see also* LR 16.1 (“the Court will require attendance at conference ‘by an attorney who has the authority to bind that party regarding all matters . . .’” (citing 28 U.S.C. § 473(b)(2))). The Rule 26(f) conference should take place once both parties are able to appear and provide a representative that can bind that party.

### CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court continue the 26(f) Joint Discovery Conference to **November 23, 2012**, or to a later date that is in accordance with this Court’s schedule.

Respectfully submitted,

MILLENNIUM TGA, INC.

DATED: September 4, 2012

By: **DOUGLAS M. MCINTYRE & ASSOCIATES**

/s/ Douglas M. McIntyre  
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COUNSEL FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 4, 2012, all individuals of record who are deemed to have consented to electronic service are being served true and correct copy of the foregoing documents, and all attachments and related documents, using the Court's ECF system, in compliance with Local Rule 5.3.

/s/ Douglas M. McIntyre  
DOUGLAS M. MCINTYRE